

CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT

THIS CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT ("Permit") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and SAN DIEGO CHAPTER 14 EXPERIMENTAL AIRCRAFT ASSOCIATION, a California DOMESTIC NONPROFIT corporation, ("PERMITTEE"), to be effective as of 6/31/18, (the "Effective Date") when signed by the parties.

DEFINITIONS

As used in this Permit, the following terms shall be defined as follows:

- A. **"Permit Area"** shall mean part of that certain real property consisting of approximately 48.26 square feet of unimproved land (the "Property") located at Brown Field Airport (the "Airport"), as more particularly depicted on the attached **Exhibit A & A-1: Permit Area**, attached hereto.
- B. **"Permit Use"** shall mean the nonexclusive use of the Permit Area for the temporary relocation of PERMITTEE's individual hangar and ingress and egress to PERMITTEE's hangar while the CITY performs work pursuant to its Runway 8L-28R Rehabilitation Project ("Project") through PERMITTEE's current leasehold area.
- C. **"Permit Fee"** PERMITTEE's fee for this Permit shall be waived because by moving its hangar from its current leasehold area, PERMITTEE is facilitating the CITY's completion of the Project by providing haul route access to CITY.
- D. **"PERMITTEE'S Address for Notices"** shall be:

San Diego Chapter 14 Experimental Aircraft Association
Attn: Gene Hubbard
1409 Continental Street
San Diego, CA 92154
- E. **"Term"** The Term shall commence on the March 1, 2018. The term shall not exceed three (3) years.

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

- 1. **Occupancy.** Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE, its officers, employees, agents, contractors, invitees, and guests non-exclusive permission to enter upon and occupy the Permit Area solely for the Permit Use.

2. Use of Permit Area. PERMITTEE may use the Permit Area solely for the Permit Use and for no other purpose whatsoever without CITY'S prior written consent in each instance.
3. Governmental Approvals. By entering into this Permit, neither CITY nor CITY'S City Council is obligating itself to any governmental agent, board, commission, or agency with regard to any other discretionary action relating to PERMITTEE'S use of the Permit Area. Discretionary action includes without limitation re-zonings, variances, environmental clearances, and all other required governmental approvals.
4. CITY'S Consent, Discretion. Whenever required under this Permit, CITY'S consent or approval shall mean the written consent or approval of the City's Deputy Director of its Airports Division ("**Deputy Director**"), unless otherwise expressly provided, without need for further resolution by the City Council. CITY'S discretionary acts hereunder shall be made in the Deputy Director's discretion, unless otherwise expressly provided.
5. Revocable License. This Permit is not a lease. It is a license to use CITY-owned property, and may be revoked at will by CITY, in its sole discretion. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation or the termination of this Permit. PERMITTEE expressly waives any claim for expense or loss which PERMITTEE might incur as a result of CITY'S revocation or termination of this Permit.
6. No Holdover. If PERMITTEE continues to occupy the Permit Area after the expiration or earlier termination of this Permit, such occupancy shall neither constitute a renewal or extension of this Permit, nor give PERMITTEE any rights in or to the Permit Area. If PERMITTEE continues to occupy the Permit Area after the expiration or earlier termination of this Permit, PERMITTEE shall pay to CITY rent calculated on a per diem basis using three (3) times the rental rate in effect just prior to such expiration or earlier termination. CITY'S acceptance of such rent shall neither constitute a renewal or extension of this Permit, nor give PERMITTEE any rights in or to the Permit Area.
7. Termination. PERMITTEE may terminate this Permit at any time and for any reason with thirty (30) days written notice.
8. Restore and Vacate. Prior to the expiration or PERMITTEE'S earlier termination of this Permit, PERMITTEE shall restore the Permit Area to its condition on the Effective Date, normal wear and tear excepted, and upon such expiration or earlier termination immediately vacate the Permit Area. Upon CITY'S termination of this Permit, PERMITTEE shall immediately cease all operations on the Permit Area and as soon as practicable thereafter restore the Permit Area to its condition on the Effective Date, normal wear and tear excepted, and vacate the Permit Area.
9. Superior Interests. This Permit is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements, and rights-of-way pertaining to the Permit Area, whether or not of record. PERMITTEE shall obtain all licenses, permits, and agreements from such third parties as may be or become necessary or

reasonably advisable to allow its use of the Permit Area, relative to any such superior interest. If PERMITTEE'S use of the Permit Area is or becomes inconsistent or incompatible with a preexisting, superior interest, PERMITTEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.

10. Maintenance of the Permit Area. PERMITTEE shall, at PERMITTEE'S sole cost and expense and to CITY'S satisfaction, maintain the Permit Area in good order and repair and in a safe, healthy and sanitary condition at all times during the Term, subject to normal and ordinary wear and tear resulting from the Permit Use. CITY shall at no time during the Term be required to make any improvements or repairs to the Permit Area. PERMITTEE shall keep the Permit Area free and clear of rubbish, debris and litter caused by the Permit Use.
11. Inspection. CITY may at all times enter and inspect the Permit Area.
12. Utilities. PERMITTEE shall order, obtain, and pay for all utilities and service and installation charges in connection with its use of the Permit Area.
13. Improvements/Alterations. PERMITTEE shall not construct any improvements, structures, or installations on the Permit Area, and shall not alter the Permit Area without the express written consent of CITY. Except as required by law, CITY shall not be obligated to make any repair or assume any expense for any improvements or alterations to the Permit Area.
14. Insurance. PERMITTEE shall deliver to CITY'S Real Estate Assets Department, Airports Division, a current certificate of insurance for:
 - i. Commercial General Liability Insurance, providing coverage for bodily injury, including death, personal injury, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Two Million Dollars (\$2,000,000);
 - ii. Fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover one hundred percent (100%) of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property.
- 14.1. Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.
- 14.2. Primary and Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY.

- 14.3. Qualified Insurer(s). All insurance required by the terms of this Permit must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to CITY. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet CITY requirements.
- 14.4. Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of PERMITTEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
- 14.5. Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. The policies shall be kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, PERMITTEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. PERMITTEE shall provide proof of continuing insurance at least annually during the Term. If insurance lapses or is discontinued for any reason, PERMITTEE shall immediately notify CITY and obtain replacement insurance as soon as possible.
- 14.6. Modification. To assure protection from and against the kind and extent of risk existing with the Permit Use or the Permit Area, CITY, at its discretion, may require the revision of amounts and coverage at any time during the Term by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY'S reasonable re-evaluation of risk levels related to the Permit Use or the Permit Area.
- 14.7. Accident Reports. PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons and related to the Permit Use or the Permit Area. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
15. Indemnification. PERMITTEE shall protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE'S officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Permit or PERMITTEE'S use of the Permit Area, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that PERMITTEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the gross negligence, recklessness, or intentional

misconduct of CITY and its elected officials, officers, employees, representatives, and agents.

16. PERMITTEE'S Risk. PERMITTEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with the PERMITTEE'S use of the Permit Area, and any damages to the improvements on, under, or in the vicinity of the Permit Area resulting directly or indirectly thereby.
17. No Nuisance. PERMITTEE shall not use the Permit Area in any manner which creates a nuisance or unreasonably disturbs the quiet enjoyment of persons in and to the surrounding area.
18. Assignment and Sublicense. PERMITTEE shall not assign or sublicense any rights granted by this Permit or any interest in this Permit without CITY'S prior written consent.
19. Signs. PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without CITY'S prior written consent. If any such unauthorized item is found on the Permit Area, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter remove the item at PERMITTEE'S cost.
20. Encumbrances. PERMITTEE shall keep the Permit Area and any CITY-owned property of which the Permit Area is a part free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with this Permit or PERMITTEE'S use of the Permit Area. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs, relating to or charged against the Permit Area.
21. Compliance with Laws. PERMITTEE shall, at its sole cost and expense, comply with all the requirements of all rules, regulations, ordinances, laws and direction of governing authorities now in effect or which may hereafter be in effect, which pertain to PERMITTEE'S use of the Permit Area.
22. Taxes. PERMITTEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon PERMITTEE or the Permit Area by reason of PERMITTEE'S use of the Permit Area, including without limitation licenses and permits. PERMITTEE'S payment for such taxes, fees, and assessments shall not reduce any payment due CITY.
23. Hazardous Substances. PERMITTEE shall not allow the installation, storage, utilization, generation, sale or release of hazardous or otherwise regulated substances in, on, under, or from the Permit Area. PERMITTEE and PERMITTEE'S agents and contractors shall not install, store, utilize, generate, or sell any hazardous substance on the Permit Area without CITY'S prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego

County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a hazardous substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment, or device which holds or incorporates a hazardous substance or hazardous waste.

- 23.1. Release. For the purposes of this provision, a release shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean any hazardous liquid, solid, or gaseous material substances listed by the Environmental Protection Agency or the State of California as a hazardous substance, and any type of petroleum-related substances and their chemical constituents. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and is hereby incorporated into this Permit.
- 23.2. Remediation. If PERMITTEE'S use of the Permit Area results in a release of a hazardous substance, or petroleum related substance or its chemical constituents, PERMITTEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Permit Area, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 23.3. Removal. If PERMITTEE or PERMITTEE's contractor or agent has received approval and permits to store, utilize, generate, or install, or otherwise bring hazardous materials or hazardous wastes to the Permit Area, PERMITTEE and/or PERMITTEE's contractor or agent shall remove all hazardous substances and hazardous wastes in any type of container, equipment, or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment, or devices from the Permit Area. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment, or device requiring disposal or removal as required by this provision.
- 23.4. Indemnity. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE'S use of the Permit Area, including without limitation costs of environmental assessments; costs of regulatory remediation oversight; costs of remediation and removal; any necessary CITY response costs; all fines, penalties or fees assessed by any regulatory agency; damages for injury to natural resources, PERMITTEE'S elected officials, officers, employees, invitees, guests, agents, or contractors, or the public; and all costs of any health assessments or health effect studies.

- 23.5. Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a hazardous substance or petroleum related substance or its chemical constituents has been released on, from, or beneath the Permit Area, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency per California Administrative Code Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Area.
- 23.6. Environmental Assessment. Upon reasonable cause to believe that PERMITTEE'S use of the Permit Area ("PERMITTEE'S Operations"), resulted in any hazardous substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE'S sole cost and expense, and shall establish what, if any, hazardous substances have more likely than not been caused by PERMITTEE'S Operations on, in, from or under the Permit Area, and in what quantities. If any such hazardous substances exist in quantities greater than allowed by city, county, state, or federal laws, statutes, ordinances, or regulations, or require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Area and compliance with environmental law and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefor.
24. Waiver. The property constituting the Permit Area is publicly owned and held in trust for the benefit of CITY'S citizens. CITY'S failure to insist upon the strict performance of any of PERMITTEE'S obligations under this Permit, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. CITY'S waiver of a breach shall not be a waiver of any other breach. Any waiver of a breach must be in a writing executed by CITY to constitute a valid and binding waiver. CITY'S delay or failure to exercise a right or seek a remedy shall not be deemed a waiver of that or any other right or remedy under this Permit, at law or in equity. The exercise of any particular right or the use of any particular remedy for any

breach shall not waive the use of any other right or remedy for the same breach or for another or later breach. CITY'S acceptance of any rents shall not be a waiver of any breach preceding the rent payment. CITY'S failure to discover a breach or take prompt action to require the correction of any breach shall not result in an equitable estoppel, but CITY may at any and all times require the correction of the breach.

25. Cumulative Remedies. CITY'S rights and remedies under this Permit are cumulative and shall not limit or otherwise waive or deny any of CITY'S rights or remedies at law or in equity.
26. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.
27. Joint and Several Liability. If PERMITTEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of PERMITTEE under this Permit.
28. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture, or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.
29. Entire Agreement. This Permit constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Permit and PERMITTEE'S use of the Permit Area. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
30. Legal Proceedings. If any party brings an action or proceeding against another party under this Permit, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses thereof, including without limitation reasonable attorney fees and costs. The "prevailing party" shall be that party who obtains substantially the result sought, whether by settlement, dismissal, or judgment. If, as a result of an action brought by or against PERMITTEE in connection with this Permit, CITY intervenes therein, becomes a party, or is made a party thereto, PERMITTEE shall pay all of CITY'S costs and expenses thereof, including without limitation reasonable attorney fees and costs.
31. Notices. Any notice required or permitted to be given under this Permit shall be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to PERMITTEE at PERMITTEE'S Address for Notices, and to CITY as follows:

CITY:
City of San Diego

Attn: Deputy Director
3750 John J. Montgomery Drive
San Diego, CA 92123

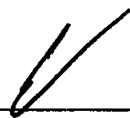
32. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing Permit, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.
33. Acceptance of Permit Area. By signing this Permit, PERMITTEE represents and warrants that it has independently inspected the Permit Area and made all tests, investigations, and observations necessary to satisfy itself as to the condition of the Permit Area and its suitability for the Permit Use. PERMITTEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition, and acknowledges and agrees that CITY has fulfilled all obligations it may have had to improve, modify, repair, replace, alter, or otherwise develop the Permit Area prior to the Effective Date. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area. PERMITTEE accepts and assumes all risk of harm to all persons and property, including without limitation PERMITTEE'S employees, from any defects in the Permit Area, and shall be solely responsible therefor.

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IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

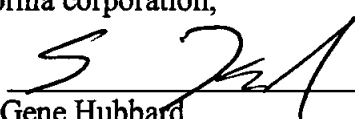
Date: 7/30/18

THE CITY OF SAN DIEGO, a California municipal corporation

BY: 
Cybele Thompson
Director, Real Estate Assets

Date: 25 July 2018

EXPERIMENTAL AIRCRAFT ASSOCIATION, a California corporation,

BY: 
Gene Hubbard
Chief Executive Officer

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

Date: 6/13/18

BY: 
Name: Alyssa Muto
Title: Deputy Director, Planning Department

APPROVED AS TO FORM:

MARA W. ELLIOTT, City Attorney

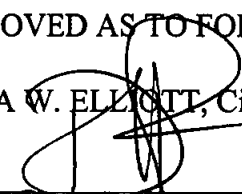
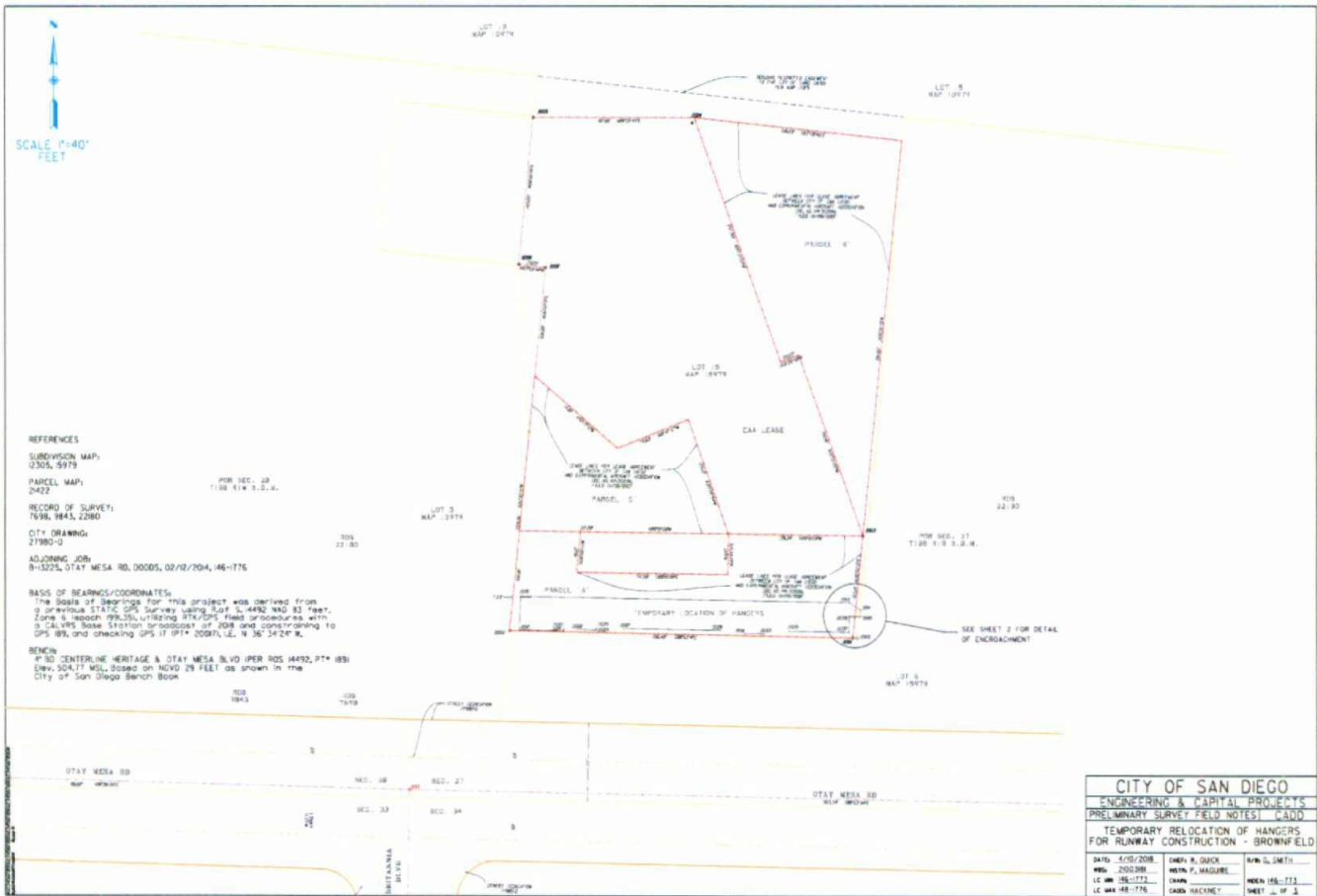
BY: 
David Powell, Deputy City Attorney

EXHIBIT A - PERMIT AREA



SCALE 1"=40' FEET

179.24' 1087.00'

46.00' 1007.44' 301'

LEASE LINES PER LEASE AGREEMENT BETWEEN CITY OF SAN DIEGO AND EXPERIMENTAL AIRCRAFT ASSOCIATION, DOC. NO. 10070205, FILED 01/09/2017

1087.00'

40.24'

46.00'

TEMPORARY HANGER LOCATION

LOCATION OF ENCROACHMENT

Map Report
Report Created: 4/10/2018
Time: 10:28am
Project: 100388Brown Field R01 Permit
Description:
The names, sizes, work units, location, and other information for the project are in this report and in the field unless specified otherwise.
Lot Area (sq ft): 19,087
Area of Encroachment: 19,087

CITY OF SAN DIEGO		
ENGINEERING & CAPITAL PROJECTS		
PRELIMINARY SURVEY FIELD NOTES - CADD		
TEMPORARY RELOCATION OF HANGERS FOR RUNWAY CONSTRUCTION - BROWNFIELD		
DATE: 1/10/2018	DRAWN BY: DAVID L. QUINN	CHECKED BY: DAVID L. QUINN
DATE: 1/10/2018	DRAWN BY: DAVID L. QUINN	CHECKED BY: DAVID L. QUINN
DATE: 1/10/2018	DRAWN BY: DAVID L. QUINN	CHECKED BY: DAVID L. QUINN

EXHIBIT B – FAA REQUIREMENTS

Permittee and its officers, employees, contractors, agents, sub-permittees, and all others operating through Permittee shall conform to the following FAA covenants and reservations of rights.

- B.1. The Permittee's Use and Construction to Conform with Federal Aviation Regulations. The Permittee agrees to conform to all applicable Federal Aviation Regulations in any operation or construction on the Site and the Airport. The Permittee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (which may be amended or replaced by other regulations from time to time) before constructing any improvements or modifying or altering any structure on the Site and the Airport.
- B.2. The Permittee's Noninterference with Aircraft. The Permittee and the Permittee's successors, assigns agree not to in any manner interfere with any aircraft landing or taking off from Montgomery Field Airport or otherwise create a hazard. If this covenant is breached in any way, City reserves the right to abate or eliminate the interference at the expense of the Permittee.
- B.3. Agreement Subordinate to City/United States Agreements. This Permit shall be subordinate to the terms of any existing or future agreements between City and the United States, or to any United States legal requirement relative to the development, operation or maintenance of the Airport.
- B.4. Height Limitation. The Permittee and the Permittee's successors and assigns agree not to erect or permit any structure unless it complies with all FAA and ALUCP height limitations. If this covenant is breached in any way, City reserves the right to remove the structure or object at the expense of the Permittee.
- B.5. War or National Emergency. In the event of war or national emergency, this Permit and all of its provisions shall be subject to any United States Government right, existing now or in the future, affecting the control, operation, regulation, take over, or exclusive or nonexclusive use of Montgomery Field Airport. During any war or national emergency, City shall have the right to Permit, or allow the use of, any part of the Airport, including its landing areas, to the United States Government. In this event, any provisions of this Permit which are inconsistent with the provisions of the Permit to the Government shall be suspended. City shall not be liable for any loss or damages alleged by the Permit as a result of this action. However, nothing in this Permit shall prevent the Permittee from pursuing any rights it may have for reimbursement from the United States Government.
- B.6. Airport Development. City reserves the right to further develop, change or improve the Airport, including its routes and landing areas, as City sees fit, without the Permittee's interference or hindrance and regardless of the Permittee's views and desires. City shall have the right to perform any and all such actions

referred to in this Section B.6 - - including the right to shut parts or all of the Airport down - - at no liability to City, regardless of any damages or losses Permittee or any of its sub-permittees may suffer from said actions.

- B.7. Nonexclusive Right. The Permittee understands and agrees that nothing in this Permit shall be construed to grant or authorize an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 (Title 49, Section 1349 of the United States Code).
- B.8. Landing Area Maintenance. City reserves the right, but not the obligation, to maintain and repair the Airport landing area and all other public facilities. City also has the right to direct and control all of Permittee's activities affecting the maintenance and repair of the Airport land area and all other public facilities.
- B.9. FAA Nondiscrimination Covenant. The Permittee and the Permittee's representatives, successors, sub-permittees and assigns agree, as part of the consideration, that:
- B.9.1 No person shall be denied benefits, participation or subjected to discrimination in the use of facilities on the Premises based on race, color, sex or national origin.
- B.9.2 No person shall be denied benefits, excluded from participation in or subject to discrimination in the construction of any improvements nor the furnishing of any services on the Premises, based on race, color, sex or national origin.
- B.9.3 The Permittee shall conduct all activities contemplated by this Permit in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964," as now exists or may be amended in the future.

In the event of the breach of any of the above nondiscrimination covenants, City shall have the right to terminate this Permit and to reenter and repossess said Premises and facilities thereon, and hold the same as if said Permit had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

- B.10. Equal Opportunity. The Permittee, the Permittee's successors and assigns agree to undertake an equal opportunity program as required by Title 14, Code of Federal Regulations, Part 152, Subpart E, to ensure that no person shall be excluded from any employment program or opportunity, nor be denied any service described, based on race, creed, color, national origin or sex.

B.11. City to Mitigate Impacts of Subordination. If subordination agreements between City and United States of America result in the Permittee's inability to conduct activities contemplated by this Permit on the Premises or if the Permittee's activities are materially affected during a period of subordination: (1) City agrees to make a reasonable time extension or adjustment, as determined by City; or (2) upon written request from the Permittee, City will terminate this Permit. The Permittee agrees that any damages claimed during this subordination period will be limited to this time extension/adjustment relief.

B.12. Employee Conduct. The Permittee shall be responsible for the conduct of all employees, contractors, agents, invitees, and guests on the Premises and Airport, if that employee, contractor, agent, invitee or guest is on Airport property during any period of employment or in connection with the construction and development of the Improvements.

B.13. Subordination to Montgomery Field Quitclaim Deed. The Permittee agrees that this Permit is subordinate to the provisions of the Montgomery Field Quitclaim Deed to City.

B.14. Minority Business Policy. Permittee agrees that it and its contractors will ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts and subcontracts. The Permittee and the Permittee's contractors agree not to discriminate on the basis of race, color, national origin or sex in the award and performance of any Federal Department of Transportation-assisted contracts.

B.15. Right of Flight. There is hereby reserved to City, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein Permit. This public right of Flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or land at, taking off from or operation on the Airport.

B.16. No Interference with Aircraft. Permittee, by accepting this Permit, agrees for itself, its successors and assigns that it will not make use of the Permit Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the even the aforesaid covenant is breached, City reserves the right to enter upon the Premises and cause the abatement of such interference and/or hazard at the expense of Permittee.

B.17. Provisions to be Included in All Pertinent Documents. Permittee agrees that it shall insert all of the FAA Requirements provisions set forth in this Exhibit B in all sub-permits, contracts or agreement by which said Permittee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises.



Date of Notice: May 21, 2018

NOTICE OF RIGHT TO APPEAL

ENVIRONMENTAL DETERMINATION

PLANNING DEPARTMENT

PROJECT NAME/NUMBER: A short-term Right of Entry Permit for Experimental Aircraft Association, Chapter 14, at Brown Field Airport.

COMMUNITY PLAN AREA: Otay Mesa

COUNCIL DISTRICT: 8 (Gómez)

LOCATION: Brown Field Airport

PROJECT DESCRIPTION: An airport project to rehabilitate the runway requiring the tenant to temporarily relocate a hangar during the construction period.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego

ENVIRONMENTAL DETERMINATION: Categorically Exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities).

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Mayor-Appointed Designee.

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:

The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment pursuant to CEQA Guidelines Section 15301 (Existing Facilities), which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures or facilities involving negligible or no expansion of use; and where the exceptions listed in CEQA Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effects on the environment were identified; the project is not adjacent to a scenic highway; no historical resources would be affected by the action, and the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

CITY CONTACT: Michele King, Property Agent, Airports
Montgomery-Gibbs Executive Airport

MAILING ADDRESS: 3750 John J Montgomery Drive, MS 14, San Diego, CA 92123

PHONE NUMBER: 858-573-1433

On May 21, 2018, the City of San Diego made the above-referenced environmental determination pursuant to CEQA. This determination is appealable to the City Council. If you have any questions about this determination, contact the City Contact listed above.

Applications to appeal CEQA determination to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (**June 5, 2018**). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

POSTED IN THE OFFICE OF DSD

POSTED: 5/21/2018

REMOVED: _____

POSTED: E. Pascual